

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

TEAM SYSTEMS INTERNATIONAL,)
LLC,)

Appellant,)

v.)

Case No.: 2023-1556

SECRETARY OF THE DEPARTMENT)
OF HOMELAND SECURITY,)

Appellee.)

**MEMBERS OF TEAM SYSTEMS INTERNATIONAL, LLC'S
CORRECTED OPPOSED MOTION FOR LEAVE TO INTERVENE**

FORM 9. Certificate of Interest

Form 9 (p. 1)
March 2023

**UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

CERTIFICATE OF INTEREST

Case Number 2023-1556

Short Case Caption Team Systems International, LLC v. Secretary of the Department of Homeland Security

Filing Party/Entity Deborah Evans Mott; Steven M. Acosta; Christopher Mott; John S. Maciorowski

Instructions:

1. Complete each section of the form and select none or N/A if appropriate.
2. Please enter only one item per box; attach additional pages as needed, and check the box to indicate such pages are attached.
3. In answering Sections 2 and 3, be specific as to which represented entities the answers apply; lack of specificity may result in non-compliance.
4. Please do not duplicate entries within Section 5.
5. Counsel must file an amended Certificate of Interest within seven days after any information on this form changes. Fed. Cir. R. 47.4(c).

I certify the following information and any attached sheets are accurate and complete to the best of my knowledge.

Date: 06/06/2024

Signature: /s/ Randy M. Mott

Name: Randy M. Mott

FORM 9. Certificate of Interest

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1. Represented Entities. Fed. Cir. R. 47.4(a)(1).	2. Real Party in Interest. Fed. Cir. R. 47.4(a)(2).	3. Parent Corporations and Stockholders. Fed. Cir. R. 47.4(a)(3).
Provide the full names of all entities represented by undersigned counsel in this case.	Provide the full names of all real parties in interest for the entities. Do not list the real parties if they are the same as the entities. <input checked="" type="checkbox"/> None/Not Applicable	Provide the full names of all parent corporations for the entities and all publicly held companies that own 10% or more stock in the entities. <input checked="" type="checkbox"/> None/Not Applicable
Deborah Evans Mott		
Steven M. Acosta		
Christopher Mott		
John S. Maciorowski		

☐ Additional pages attached

FORM 9. Certificate of Interest

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4. Legal Representatives. List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

☐ None/Not Applicable ☐ Additional pages attached

Randy M. Mott	Law Office of Randy M. Mott	

5. Related Cases. Other than the originating case(s) for this case, are there related or prior cases that meet the criteria under Fed. Cir. R. 47.5(a)?

☐ Yes (file separate notice; see below) ☐ No ☒ N/A (amicus/movant)

If yes, concurrently file a separate Notice of Related Case Information that complies with Fed. Cir. R. 47.5(b). **Please do not duplicate information.** This separate Notice must only be filed with the first Certificate of Interest or, subsequently, if information changes during the pendency of the appeal. Fed. Cir. R. 47.5(b).

6. Organizational Victims and Bankruptcy Cases. Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

☒ None/Not Applicable ☐ Additional pages attached

The Members of the LLC respectfully move to intervene in this case as interested parties. The Appellant is a Delaware pass-through LLC and its equity owners are Deborah Evans Mott, Steven M. Acosta, Christopher Mott, and John S. Maciorowski. Counsel for the Movants contacted counsel for Appellant and Appellee. Appellant TSI opposes the intervention. Appellee opposes the intervention and intends to file a response in opposition.

Petitioners have derivative standing under Delaware law to pursue claims that go to the benefit of the LLC itself. *In re Fairpoint Ins. Coverage Appeals*, 311 A.3d 760 (Del. 2023). They are the sole and exclusive equity owners of Team Systems International LLC, currently in Chapter 7 bankruptcy. This underlying appeal has been authorized by the Bankruptcy Court in Delaware through the Chapter 7 Trustee. Petitioners have standing under the Bankruptcy Code as the amount involved in this appeal is well over the amount of the filed creditors' claims. They thus have more than "a reasonable expectation of a surplus" which would be distributed to them. *In re 60 E. 80th St. Equities, Inc.*, 218 F.3d 109, 115 (2d Cir. 2000); *accord In re Licata*, 659 F. App'x 704, 706 (2d Cir. 2016) ("To establish standing, the Chapter 7 debtor has the burden of showing that there is at least a reasonable possibility of a surplus."). *Cf. Pascazi v. Fiber Consultants, Inc.*, 445 B.R. 124, 127 (S.D.N.Y. 2011); *Licata v. Coan*, 2015 U.S. Dist. LEXIS 160333, 2015 WL 9699304 (D. Conn. Sep. 22, 2015). Movants intend to come out of Chapter 7 and resume their business.

Petitioners clearly have the right “*to protect those interests which are of such direct and immediate character that the intervenor will either gain or lose by the direct legal operation and effect of the judgment.*” *American Maritime Transport, Inc. v. United States*, 870 F.2d 1559, 1561 (Fed. Cir. 1989). See *In re UUSI, LLC*, 549 F. App’x 964 (Fed. Cir. 2013). The motion occurs now due to recent developments in the bankruptcy case that have raised issues regarding the panel Trustee’s commitment to pursue this claim. The TSI members retained the Appellant’s counsel pre-petition. It is also now more clear that movants will be a “surplus debtor” if the appeal is successful.

TSI members do not seek any change in the oral argument schedule or any opportunity to file a separate brief at this point. We do, however, request the opportunity to participate in the oral argument if that does not retract from the Appellant’s time. The motion’s late filing will not prejudice any party or the Court’s scheduling. *Roane v. Leonhart*, 741 F.3d 147 (D.C. Cir. 2014). Lack of prejudice is perhaps the most important relevant factor. *Am. Small Bus. League v. United States DOD*, 2019 U.S. Dist. LEXIS 105389 (N.D. Cal. 2019), citing *Donnelly v. Glickman*, 159 F.3d 405, 412 (9th Cir. 1998).

Dated: June 6, 2024

Respectfully submitted,

/s/ Randy M. Mott

Randy M. Mott

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S. Maciorowski

CERTIFICATE OF COMPLIANCE

1. This motion complies with the type-volume limitations of Fed. R. App. P. 27(d)(2)(A) because it contains 477 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(f).

2. This motion complies with the typeface and type-style requirements of Fed. R. App. P. 32(a)(5) and Fed. R. App. P. 32(a)(6) because it has been prepared in a proportionally spaced, 14-point Times New Roman font using Microsoft Word.

Dated: June 6, 2024

/s/ Randy M. Mott
Randy M. Mott

*Counsel for Proposed Intervenors
Deborah Evans Mott, Steven M.
Acosta, Christopher Mott, and John S.
Maciorowski*

CERTIFICATE OF SERVICE

I hereby certify that on June 6, 2024, the foregoing was filed with the Clerk of the United States Court of Appeals for the Federal Circuit using the appellate CM/ECF system, which will send a notification of electronic filing to all counsel of record who are registered CM/ECF users.

Dated: June 6, 2024

/s/ Randy M. Mott
Randy M. Mott

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Acosta, Christopher Mott, and John S.
Maciorowski*